

REMARKS

This Amendment is submitted in reply to the non-final Office Action mailed on February 26, 2007. No fee is due in connection with this Amendment. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112701-520 on the account statement.

Claims 1-20 are pending in this application. In the Office Action, Claims 1-20 are rejected under 35 U.S.C. §103(a). Claim 20 has been amended. For at least the reasons set forth below, Applicants respectfully submit that the rejections are improper and should be withdrawn.

Claim 20 has been amended for clarification purposes.

In the Office Action, Claims 1-3 and 5-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,330,778 to Stark, et al. ("*Stark I*") or U.S. Patent No. 5,021,248 to Stark, et al. ("*Stark II*") or U.S. Patent No. 5,145,702 to Stark, et al. ("*Stark III*"). Applicants respectfully disagree with and traverse this rejection for at least the reasons set forth below.

Independent Claim 1 recites, in part, a reduced-fat flavored coating comprising a sugar matrix of sugar crystals and sugar glass in an amount effective to provide the coating with sufficient structural integrity to prevent flowability at temperatures less than about 40 °C and a plurality of microspheres dispersed through the flavoring agent and sugar matrix to provide a slippery mouthfeel that mimics fat. Independent Claim 20 recites, in part, a method comprising providing a sugar matrix formed from a plurality of sugar crystals and sugar glass and combining the flavoring agent, sugar matrix, and microspheres with milk to form a flowable reduced-fat flavored coating. In contrast, Applicants respectfully submit that the cited references are deficient with respect to the present claims.

Cocoa butter used in conventional chocolate typically starts to soften at about 28 °C, with consequent loss of the mechanical strength of the chocolate. This means that at the high ambient temperatures frequently encountered in tropical countries, chocolate becomes sticky or even runny. In addition, enrobed or coated chocolate products typically lose structural integrity under warm conditions, with their contents often leaking and individual units tending to stick together in the packaging. Chocolate also loses the "snap" that is an important (and pleasurable) textural characteristic of chocolate stored and eaten under cooler conditions.

Another problem associated with the low melting point of cocoa butter is that of blooming, which is caused by the separation of the melted cocoa butter on the surface of chocolate products at higher temperatures followed by its subsequent crystallization as the temperature falls. This gives an unpleasant grayish appearance to the product that is reminiscent of mold. Repeated exposure to long hot and cold cycles is particularly likely to encourage undesirable blooming. An advantage of the present claims is that it provides a reduced-fat flavored coating that can be successful in mimicking chocolate. In addition, flavored coatings that are low-fat, low-calorie, or both, and melt-resistant under tropical or hot conditions can be obtained.

With respect to the sugar matrix of sugar crystals and sugar glass of the present claims, the specification teaches that the "sugar glass" or glassy sugar or the combination of such sugar with crystalline sugar, rather than crystalline sugar alone, provides surprising characteristics of the claimed coatings. For example, sugar glass fractures easily upon consumption and dissolves even faster than an equivalent crystalline sugar structure. As a result, the ratio of sugar glass to crystalline sugar permits increased control of the dissolution characteristics while being consumed (e.g. in the mouth). This dissolving effect is different from the disintegrating effect caused by hydrocolloid/gum swelling that breaks the coating mass into tiny fragments during consumption.

The glassy sugar forms upon drying the mass to a point where the viscosity is sufficiently high that the sugar molecules can no longer adopt a regimented, ordered layout to form crystalline sugar, even though this is ultimately a lower energy state than the glassy form. Consequently, the molecules of sugar glass are random rather than ordered and glassy rather than crystalline. Because the sugar glass molecules have less energy than ordered sugar crystal molecules, the sugar glass binding energy is lower and therefore, glassy sugar requires less energy to dissolve than sugar crystals. As a result, it is believed that more rapid dissolution of the coatings of the present claims can occur using a higher ratio of sugar glass compared to sugar crystals.

In view of the previous discussion, Applicants respectfully submit that the cited references fail to disclose or suggest a number of elements of the present claims. For example, *Stark I*, *Stark II* or *Stark III* a reduced-fat flavored coating comprising a sugar matrix of sugar crystals and sugar glass in an amount effective to provide the coating with sufficient structural

integrity to prevent flowability at temperatures less than about 40 °C as required, in part, by Claim 1. *Stark I*, *Stark II* or *Stark III* also fail to disclose or suggest a plurality of microspheres dispersed through the flavoring agent and sugar matrix to provide a slippery mouthfeel that mimics fat as required, in part by Claim 1. Similarly, *Stark I*, *Stark II* or *Stark III* fail to disclose or suggest a method comprising providing a sugar matrix formed from a plurality of sugar crystals and sugar glass as required, in part, by Claim 20. *Stark I*, *Stark II* or *Stark III* also fail to disclose or suggest combining the flavoring agent, sugar matrix, and microspheres with milk to form a flowable reduced-fat flavored coating. In fact, the Patent Office has not even attempted to provide support for any of the aforementioned elements.

In contrast to the present claims, *Stark I*, *Stark II* or *Stark III* are entirely directed to water-dispersible microparticles of hydrophobic, water-insoluble, non-denatured protein, and methods for preparing a suspension of these microparticles by the controlled precipitation of the protein. The water-insoluble proteins used in the process can be chemically or enzymatically modified to enhance the properties of the microparticles. The suspension can be used as a substitute for most dietary fats or to encapsulate selected molecules. Nevertheless, *Stark I*, *Stark II* or *Stark III* fail to disclose or suggest using a combination of sugar matrix of sugar crystals and sugar. Moreover, the cited references fail to even recognize the advantages, benefits and/or properties of the combination of the sugar matrix of sugar crystals and sugar glass with the plurality of microspheres to produce the qualities and characteristics of the reduced-fat flavored coating in accordance with the present invention. For at least the reasons discussed above, *Stark I*, *Stark II* or *Stark III* do not teach, suggest, or even disclose all of the elements of Claims 1 and 20 and Claims 2-3 and 5-19 that depend from Claim 1 and thus, fail to render the claimed subject matter obvious.

Claims 2-4 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Stark I*, *Stark II* or *Stark III* in further view of U.S. Patent No. 5,171,603 to Singer, et al. ("*Singer*"). Applicants respectfully submit that the patentability of Claim 1 as previously discussed renders moot the obviousness rejection of Claims 2-4 that depend from Claim 1. In this regard, the cited art fails to teach or suggest the elements of Claims 2-4 in combination with the novel elements of Claim 1.

Accordingly, Applicants respectfully request that the obviousness rejections with respect to Claims 1-20 be reconsidered and the rejections be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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Dated: May 24, 2007